

United States Government

Department of Energy

# memorandum

DATE: June 6, 2003

REPLY TO: Office of Environmental Policy and Guidance (EH-41):Koss:6-7964  
ATTN OF:

SUBJECT: Proposed Clean Air Act Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard, for Review and Comment

TO: Distribution

On June 2, 2003, the Environmental Protection Agency (EPA) released a proposed rulemaking that addresses the implementation of the 8-hour ozone national ambient air quality standard (NAAQS) (68 FR 32801; available at the EH-41 Web Site at: <http://www.eh.doe.gov/oepa/rules/68/68fr32801.pdf>). An EPA fact sheet that provides background and some limited information on the proposal can be found at: [http://www.epa.gov/ttn/naaqs/ozone/o3imp8hr/documents/proprule/oz\\_implement\\_factsheet\\_5\\_12.wpd](http://www.epa.gov/ttn/naaqs/ozone/o3imp8hr/documents/proprule/oz_implement_factsheet_5_12.wpd). An EPA 26-page outline of the proposal and its options is available at: [http://www.epa.gov/ttn/naaqs/ozone/o3imp8hr/documents/proprule/8\\_hr\\_o3\\_npr\\_roadmap\\_053003.pdf](http://www.epa.gov/ttn/naaqs/ozone/o3imp8hr/documents/proprule/8_hr_o3_npr_roadmap_053003.pdf). EPA does not provide regulatory text in this proposal because the Agency desires to obtain public comment on its options conceptually first. EPA will consider comments made on this proposal before issuing proposed regulatory text.

By way of background, EPA revised the NAAQS for ground-level ozone in 1997, setting it at 0.08 parts per million averaged over an 8-hour time period. EPA's implementation of the revised ozone standard has been substantially delayed by litigation and by legislation.

The primary intent of this proposal is to provide certainty to States concerning their planning obligations, such that States may begin their development of their State implementation plans (SIPs) to attain and maintain the revised ozone standard. Some broad issues in the proposal that may have relevance to Department of Energy (DOE) stationary sources are as follows:

- Designation and classification of areas. Because the revised 8-hour ozone standard is more stringent than the 1-hour ozone standard that will be revoked, more DOE sites will be in areas that will be designated to be not in attainment with the 8-hour standard<sup>1</sup>, which will probably have ramifications for some DOE air pollution sources. The proposed rule does not identify, or designate, areas that do not meet the revised ozone standard. EPA is required by a consent decree to designate areas relative to the revised ozone standard by April 15, 2004. In the proposed rule, EPA proposes two options for classifying nonattainment areas according to the severity of ozone ambient pollution levels in each area; one of

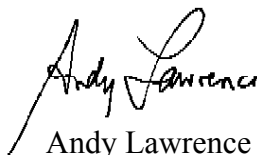
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<sup>1</sup> For information on this, see the April 9, 2002, EH-41 memo, "Information – Departmental Sites in Counties Failing to be in Attainment with the 8-Hour Ozone Ambient Standard," available at <http://homer.ornl.gov/oepa/guidance/caa/ozonenonattainment.pdf>.

these options provides more flexibility to the States, which may allow some areas to attain the revised ozone standard at a lower cost.

- Emission control requirements. EPA proposes several approaches for determining Reasonably Available Control Technology (RACT) requirements for existing, affected sources in 8-hour ozone nonattainment areas. RACT is required by the 1990 Clean Air Act Amendments for certain sources of volatile organic compounds and oxides of nitrogen in ozone nonattainment areas and the ozone transport region in the northeastern U.S.
- General conformity. For the general conformity program, which ensures that Federal actions will not interfere with an area's SIP to attain and maintain the ambient air quality standards, EPA does not propose revisions to its general conformity rule in this proposal, but the Agency will do so in a revised conformity rule. EPA plans to retain the existing ozone precursor *de minimis* emissions levels for actions in 8-hour ozone nonattainment and maintenance areas that are exempt from the conformity rule.
- New Source Review (NSR) in nonattainment areas. EPA proposes three options for the NSR program in nonattainment areas, two of which provide more flexibility than the third. One optional program would be applicable for areas that submit early SIPs and that attain the revised ozone standard early, the other would be applicable for areas that manage growth in emissions-producing activities.

Please review this proposal and submit any comments you may have by July 18, 2003, to Ted Koss of my staff at: [theodore.koss@eh.doe.gov](mailto:theodore.koss@eh.doe.gov); 202-586-7964. In developing comments, please indicate the specific pages and section of the *Federal Register* preamble to which each comment pertains. Questions concerning this rulemaking should be directed to Mr. Koss.

A handwritten signature in black ink, appearing to read "Andy Lawrence". The signature is fluid and cursive, with a large initial "A" and "L".

Andy Lawrence  
Director  
Office of Environmental Policy and Guidance

**DISTRIBUTION:** 05/29/03

"Proposed Clean Air Act Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard, for Review and Comment," memo dated 6/6/03.

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(WIPP-AL)  
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### National Nuclear Security Administration

  
THRU: James J. Mangeno, Senior Advisor for Environment, Safety and Health

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Center for Environmental Management Information